

EUROPEAN UNION CONTRIBUTION AGREEMENT

NDICI-GEO-NEAR/2023/449-592 (the "Agreement")

The European Union, represented by the European Commission (the “**Contracting Authority**”), first counterparty,
and

United Nations Office for Project Services (UNOPS)
International Organisation
UNOPS HQ, UN City
Marmorvej 51
2100 Copenhagen
Denmark

hereinafter the “**Organisation**”, second counterparty, (individually a "Party" and collectively the “Parties”) have agreed as follows:

SPECIAL CONDITIONS

Article 1 - Purpose

- 1.1 The purpose of this Agreement is to provide a financial contribution to finance the implementation of the action “*Support to Tunisia’s maritime border management*” as described in Annex I (the “Action”). This Agreement establishes the rules for the implementation and for the payment of the EU Contribution, and defines the relations between the Organisation and the Contracting Authority.
- 1.2 The Action is fully financed by the EU Contribution.
- 1.3 The Organisation declares that no substantial changes, which have not already been communicated to the Commission, affect the rules and procedures which have been subject to the Ex-ante Pillar-Assessment.

In the performance of the activities, the Organisation shall:

- Apply its own rules and procedures for the award and management of Procurement Contracts which have been assessed in the Ex-ante Pillar Assessment, complemented with the ad-hoc measures laid down in Article 7, and
 - Apply its own rules and procedures for the award and management of Grants, which have been assessed in the Ex-ante Pillar Assessment, complemented with the ad-hoc measures laid down in Article 7.
- 1.4 The Action is financed under the European Union Neighbourhood, Development and International Cooperation Instrument (NDICI).
 - 1.5 The Organisation shall provide annually a global management declaration to the European Commission headquarters.
 - 1.6 Without prejudice to Article 7.1.1.5 of these Special Conditions, this Agreement is subject to the provisions of the Financial and Administrative Framework Agreement between the European Union, represented by the European Commission, and the United Nations, concluded on 29 April

2003 and amended on 26 February 2014 and on 31 December 2018 (hereinafter referred to as ‘the EU-UN FAFA’)

Article 2 - Entry into Force and Implementation Period

Entry into Force

2.1 The Agreement shall enter into force on the date when the last Party signs.

Implementation Period

2.2 The Implementation Period of the Agreement (the "Implementation Period") shall commence on:

- the date when the last Party signs.

2.3 The Implementation Period of the Agreement is **27 months**.

Article 3 - Financing the Action

3.1 The total cost of the Action is estimated at EUR ("Currency of the Agreement") 18 000 000, as set out in Annex III. The Contracting Authority undertakes to provide a contribution up to a maximum of **EUR 18 000 000** (the “EU Contribution”).

The final amount will be established in accordance with Articles 16 to 18 of Annex II.

Remuneration

3.2 The remuneration of the Organisation by the Contracting Authority for the activities to be implemented under this Agreement shall be **7%** of the final amount of eligible direct costs of the Action to be reimbursed by the Contracting Authority.

Interest on pre-financing

3.3 Interest generated on pre-financing shall not be due.

Article 4 - Payment Arrangements and Reporting

4.1 The pre-financing rate is 100%.

4.2 Payments shall be made in accordance with Article 17 of Annex II. The following amounts are applicable, all subject to the provisions of Annex II:

First pre-financing instalment: **EUR 17,072,283.61**

Further pre-financing instalments: **EUR 927,716.39** following the end of the 1st reporting period, corresponding to the Contracting Authority’s part of the forecast budget for the subsequent 12 months.

4.3 The Organisation acknowledges that the European Commission is progressively introducing an Electronic Exchange System pursuant to the EU Financial Regulation, accessible via the Single Electronic Data Interchange Area (SEDIA) portal, the “EU Funding & Tender Opportunities” portal (the “System”), for the electronic management of this Agreement.

The European Commission shall inform the Organisation at least three months prior to the date on which other documents and processes related to this Agreement (including electronic payment requests and communications) are to be processed via the System.

Notwithstanding the above, the Organisation:

- shall submit the information referred to in Article 3.7 b) of Annex II via the System for all reports under this Agreement.

- may submit the progress and/or final reports referred to in Article 3.1 of Annex II via the System.

- 4.4 In accordance with Article 3.4 of Annex II the Organisation will submit, in addition to the annual reports, quarterly narrative information notes and monthly programme updates. The format and content of these reports is better defined in section 7.1 Reporting of Annex I, Description of the Action.

Article 5 – Communication language and contacts

- 5.1 All communications to the Contracting Authority in connection with the Agreement, including reports referred to in Article 3 of Annex II, shall be in English.

- 5.2 Subject to Article 4.3, any communication relating to the Agreement shall be in writing, shall state the Contracting Authority's contract number and the title of the Action, and shall be dispatched to the addresses below.

- 5.3 Subject to Article 4.3, any communication relating to the Agreement, including payment requests and attached reports, and requests for changes to bank account arrangements shall be sent to:

For the Contracting Authority

European Commission,

Directorate-General for Neighbourhood and Enlargement Negotiations - NEAR

For the attention of [REDACTED] R4 - Contracts and Finance Neighbourhood J-54, [REDACTED]

Avenue de Bourget I, 1049 Brussels, Belgium

E-mail address: NEAR-R4@ec.europa.eu

Copies of the documents referred to above, and correspondence of any other nature, shall be sent to:

European Commission,

Directorate-General for Neighbourhood and Enlargement Negotiations - NEAR NEAR.DGA2.01

- Migration assistance to Neighbouring Countries

For the attention of [REDACTED] L-15, [REDACTED]

Avenue du Bourget I, B-1049 Brussels, Belgium

E-mail address: NEAR-MIGRATION@ec.europa.eu

For the Organisation

UNOPS

UNOPS Tunisie,

7 Impasse N°1, Rue 8840, Centre Urbain Nord,

1003 Cité El Khadra - Tunis (Tunisia)

- 5.4 Ordinary mail shall be deemed to have been received on the date on which it is officially registered at the address referred to above.

5.5 The contact point within the Organisation, which shall have the appropriate powers to cooperate directly with the European Anti-Fraud Office (OLAF) in order to facilitate the latter's operational activities shall be: [REDACTED], [REDACTED]@unops.org

[REDACTED] Internal Audit and Investigations Group

UNOPS HQ, UN City

Marmorvej 51

2100 Copenhagen

Denmark

5.6 All exchanges concerning the Early Detection and Exclusion System shall take place between the Contracting Authority and the authorised person designated by the Organisation, which is:

[REDACTED]@unops.org

[REDACTED]

7 Impasse N°1, Rue 8840, Centre Urbain Nord,

1003 Cité El Khadra - Tunis

Tunisia

Article 6 - Annexes

6.1 The following documents are annexed to these Special Conditions and form an integral part of the Agreement:

Annex I: Description of the Action (including the Logical Framework of the Action)

Annex II: General Conditions for Contribution Agreements

Annex III: Budget for the Action

Annex IV: Financial Identification Form

Annex V: Standard Request for Payment

6.2 In the event of a conflict between these Special Conditions and any Annex thereto, the provisions of the Special Conditions shall take precedence. In the event of a conflict between the provisions of Annex II and those of the other Annexes, the provisions of Annex II shall take precedence.

Article 7 – Additional specific conditions applying to the Action

7.1 The following shall supplement Annex II:

7.1.1 Pursuant to Article 2 of Annex II, the Organisation shall apply the following ad hoc measures:

7.1.1.1 The Organisation commits to implement all the actions, by their corresponding due dates, included in the response plan adopted by the Organisation's Executive Board on 31 January 2023 (hereinafter referred to as the 'Response Plan'). In case such Response Plan is amended or if the implementation of an action contained in the Response Plan is at risk of being delayed, the Organisation shall inform the European Commission within 15 Days from the date of the amendment or the date the risk arises.

7.1.1.2 The Organisation reaffirms its commitment to undergo, without delay and upon request by the European Commission, an Ex-ante Pillar Assessment of its rules and procedures related to one or more of the areas referred to under Article 2.2 of Annex II, including as regards the award and management of Grants and/or Procurement Contracts. The final outcome of such assessment, if

requested by the European Commission, shall be notified by the European Commission, in writing, to the Organisation.

7.1.1.3 Until receipt, by the Organisation, of the European Commission's written notification referred to under Article 7.1.1.2 of these Special Conditions, confirming the positive final outcome of the assessment, the Organisation shall comply with the obligations on exclusion from access to funding stipulated under Article 7.1.1.4, and with Article 7.1.1.5, of these Special Conditions. The European Commission recognises that these ad hoc measures are without prejudice to the Organisation's status under international law, its privileges and immunities and its regulatory framework, and that funds will continue to be administered in accordance with the Organisation's regulatory framework.

7.1.1.4 For the implementation of Article 20 of Annex II, the Organisation will require that recipients of funds originating from contributions from the EU under this Agreement provide the Organisation with a declaration confirming that neither they, nor any person having powers of representation, decision-making or control over them, nor any member of their administrative, management or supervisory body have been in one of the exclusion situations referred to in point 2.1 a) of Annex 2a of the Terms of Reference for the Ex-ante Pillar Assessment, namely:

- a) bankruptcy, insolvency or winding-up procedures;
- b) breach of obligations relating to the payment of taxes or social security contributions;
- c) grave professional misconduct, including mis-representation;
- d) fraud;
- e) corruption;
- f) conduct related to a criminal organisation;
- g) money laundering or terrorist financing;
- h) terrorist offences or offences linked to terrorist activities;
- i) child labour and other trafficking in human beings;
- j) irregularity;
- k) creating a shell company;
- l) being a shell company.

This obligation shall not apply to natural persons who ultimately benefit from the assistance to be financed under this Agreement.

7.1.1.5 Pursuant to Article 15.2 of the EU-UN FAFA and for the implementation of Article 15.6 of Annex II and Section 3 of the 'Common Understanding on the use of the Terms of Reference for Expenditure Verification for Operations implemented by UN Organisations that are among the Signatory Parties of the EU-UN FAFA' (hereinafter referred to as the 'Common Understanding'), concluded on 20 March 2019, the following shall exceptionally apply to this Agreement:

- Verifiers can select a sample of a maximum of 60 transactions from the Organisation's primary transaction listing. This sample shall represent up to 50% of reported expenditure.
- The selection of transactions will be based on random sampling (by category of expenditure).
- In case the European Commission, in the exercise of its discretion, assesses that the results of the verifiers' testing may be extrapolated to more transaction(s) included in the Organisation's primary transaction listing, it shall notify the Organisation of such assessment. Unless the Organisation and the European Commission agree on a different time limit, within 45 Days of such notification, the Organisation shall provide, to the European Commission, a detailed analysis, from its Internal Audit and Investigation Group, on the assessment made by the

European Commission. In case of disagreement, the European Commission and the Organisation shall consult without delay.

For the implementation of Section 4 of the Common Understanding, verifiers shall be granted full access, by the Organisation, to documentary evidence.

7.1.1.6 As from the date of receipt, by the Organisation, of the European Commission's written notification referred to under Article 7.1.1.2 of these Special Conditions, the Organisation may apply its own rules and procedures as regards the areas referred to under that same Article, complemented, if applicable and where necessary, by agreed ad hoc measures to be inserted in the Agreement by way of an amendment. If the Parties do not agree to such amendment, the Contracting Authority may terminate the Agreement in accordance with Article 12.1(a) of Annex II.

7.1.1.7 In the event of serious delays or deviations related to the implementation of the Response Plan, the European Commission and the Organisation shall consult without delay. Further to such consultation and depending on the seriousness of the delays or deviations related to the implementation of the Response Plan, the Contracting Authority may either terminate this Agreement in accordance with Article 12.1(a) of Annex II, or request an amendment to this Agreement in order to modify or complement the present ad-hoc measures. If the Parties do not agree to such amendment, or if the Organisation refuses to undergo, without delay and upon request by the European Commission, an Ex-ante Pillar Assessment of its rules and procedures as provided for under Article 7.1.1.2 of these Special Conditions, the Contracting Authority may terminate this Agreement in accordance with Article 12.1(a) of Annex II.

7.1.2 Where the implementation of the Action requires the setting up or the use of one or more project offices, the Organisation and/or the Partner(s) may declare as eligible direct costs the capitalised and operating costs of the structure if all the following conditions are fulfilled:

- a) They comply with the cost eligibility criteria referred to in Article 16.1 of Annex II;
- b) They fall within one of the following categories:
 - i) costs of staff, including administration and management staff, directly assigned to the operations of the project office. The tasks listed in the Description of the Action (Annex I), undertaken by staff assigned to the project office will be directly attributable to the implementation of the Action.
 - ii) travel and subsistence costs for staff and other persons directly assigned to the operations of the project office;
 - iii) depreciation costs, rental costs or lease of equipment and assets composing the project office.
 - iv) costs of maintenance and repair contracts specifically awarded for the operations of the project office;
 - v) costs of consumables and supplies specifically purchased for the operations of the project office;
 - vi) costs of IT and telecommunication services specifically purchased for the operations of the project office;
 - vii) costs of energy and water specifically supplied for the operations of the project office;
 - viii) costs of facility management contracts including security fees and insurance costs specifically awarded for the operations of the project office;
- c) Where costs of the project office are declared as actual costs, the Organisation and/or the Partner(s) may declare as eligible only the portion of the capitalised and operating costs of project office that corresponds to the duration of the Action and the rate of actual use of the project office for the purposes of the Action.

- d) Costs of the project office not declared as actual costs are only eligible if they have been ex ante-assessed by the European Commission.

Done in Brussels and Copenhagen in two originals in the English language, one for the Contracting Authority and one for the Organisation.

For the Organisation

For the Contracting Authority

Name [REDACTED]

Name [REDACTED]

Position [REDACTED] UNOPS - Afrique de l'Ouest francophone, lusophone et du Maghreb

Position [REDACTED]

Signature

Signature

Date

Date